

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JAMES JEROME PERRY,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 5:10-CV-124 (MTT)
)	
GENE POPE, et al.,)	
)	
Defendants.)	
)	

ORDER

This matter is before the Court on the Recommendation of United States Magistrate Judge Charles H. Weigle. (Doc. 43). The Magistrate Judge recommends granting in part and denying in part the Motion to Dismiss filed by Defendants Sheriff Gene Pope, Major Sandra Thurston, Sergeant King, Sergeant Constance Gibson, Sergeant Donna Bentley, Lt. Cato, Officer Shalinda Henderson, Officer Evette Jester-Weaver, Officer Nelson, Officer Barbara Taylor, Officer Jerry James, Officer "Sister Cate," Officer "Joshua," Officer "Dyer," Officer Smith, and Officer Dupre ("Jail Defendants"). The Magistrate Judge recommends dismissing the Plaintiff's claims seeking compensatory and punitive damages because the Plaintiff has failed to allege a physical injury, but allowing the Plaintiff's claims for declaratory relief to proceed.

The Jail Defendants objected to the Magistrate Judge's recommendation, claiming that the Plaintiff is no longer incarcerated, and therefore his claims for declaratory relief are moot. (Doc. 48). The Jail Defendants are right that, generally, "a prisoner's transfer or release from a jail moots his individual claim for declaratory and injunctive relief." *McKinnon v. Talladega County*, 745 F.2d 1360, 1363 (11th Cir. 1984).

Although this is not an argument raised in their Motion to Dismiss, the Court takes judicial notice that the Plaintiff has been released from prison. See www.dcor.state.ga.us at "Georgia Offender Search" for GDC ID Number 191858 (specifying a release date of February 21, 2011). In addition to the Georgia Department of Corrections' website listing the Plaintiff has having been released in February 2011, the Plaintiff's address on file with the Court is listed as a post office box in Covington, Georgia, rather than the address of the jail at which the Plaintiff was incarcerated. For these reasons, the Court finds that the Plaintiff's claims for declaratory relief against the Jail Defendants are moot.

Accordingly, to the extent the Recommendation recommends granting the Jail Defendants' Motion to Dismiss and dismissing the Plaintiff's claims for compensatory and punitive damages, the Recommendation is adopted and made the order of this Court. Those claims are **dismissed with prejudice**. For the reasons set forth in this Order, the Plaintiff's remaining claims against the Jail Defendants are **dismissed without prejudice as moot**.

SO ORDERED, this 26th day of September, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT